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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 KAYLEEN K.,

9 Plaintiff,

10 v.

11 COMMISSIONER OF SOCIAL SECURITY,

12 Defendant.

Case No. C19-5269-MLP

ORDER

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14 This matter comes before the Court on Plaintiff's motion for reconsideration. (Dkt. # 15.)
15 On September 19, 2019, the Court entered an order reversing the Commissioner's decision
16 denying benefits with respect to one medical opinion and remanded the case for further
17 administrative proceedings. (Dkt. # 13.) Plaintiff timely filed the motion for reconsideration to
18 request that the Court modify its order to instruct the Commissioner to reconsider all of the
19 challenged medical opinions, rather than only one opinion, because she contends that the Court's
20 order contains manifest errors. (Dkt. # 15.) For the following reasons, the Court finds that
21 Plaintiff has not shown that she is entitled to reconsideration and her motion is therefore
22 DENIED.
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1 A motion for reconsideration under Federal Rule of Civil Procedure 59(e) “offers an
2 extraordinary remedy, to be used sparingly in the interest of finality and conservation of judicial
3 resources.” *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003) (internal citations and
4 quotation marks omitted). “Indeed, ‘a motion for reconsideration [under Rule 59(e)] should not
5 be granted, absent highly unusual circumstances, unless the district court is presented with newly
6 discovered evidence, committed clear error, or if there is an intervening change in the controlling
7 law.’” *Id.* (quoting *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000)).

8 Plaintiff has not shown that she is entitled to relief under Rule 59(e). She first argues that
9 the Court erred by pointing to substantial evidence that supports the ALJ’s discounting of an
10 opinion written by Robert Lang, M.D., because his opinion described temporary limitations
11 following Plaintiff’s surgery. (Dkt. # 15 at 3.) The Court did not provide a reason not articulated
12 by the ALJ, as Plaintiff suggests (*id.*), but determined whether the reason that was provided by
13 the ALJ was supported by the record. This is not error, as it is the task of the Court to review an
14 ALJ’s decision for substantial evidence. *See, e.g., Batson v. Comm’r of Social Sec. Admin.*, 359
15 F.3d 1190, 1193 (9th Cir. 2004) (“The Commissioner’s decision must be affirmed by us if
16 supported by substantial evidence, and if the Commissioner applied the correct legal
17 standards.”).

18 Next, Plaintiff raises concerns with a footnote in the Court’s order that discussed
19 Plaintiff’s argument that the ALJ erred in failing to consider Dr. Lang’s opinion in the context of
20 the entire record, specifically three medical opinions identified in the briefing and in her motion.
21 (Dkt. # 15 at 3-6.) The Court explained in that footnote that Plaintiff had not cited any “authority
22 requiring an ALJ to explicitly compare a doctor’s opinion to other opinions in the record.” (Dkt.
23 # 13 at 8-9 n.5.) Plaintiff contends that the Court overlooked her reference to 20 C.F.R. §

1 416.927(c) (dkt. # 13 at 6), but this regulation does not require *explicit discussion* of an opinion's
2 consistency with other opinions, as the Ninth Circuit has clarified. *See Kelly v. Berryhill*, 732
3 Fed. Appx. 558, 562-63 n.4 (9th Cir. May 1, 2018) (clarifying *Trevizo v. Berryhill*, 871 F.3d 664,
4 676 (9th Cir. 2017)). Thus, although Plaintiff argues that the ALJ erred because the ALJ did not
5 explicitly compare Dr. Lang's opinions to the three opinions Plaintiff focuses on in her briefing
6 and in her motion, she has still not shown that such a discussion was required.

7 Lastly, Plaintiff suggests that the Court erred in partially affirming an ALJ's reliance on
8 the opinion of a non-examining State agency consultant, over a treating neurosurgeon's opinions.
9 (Dkt. # 15 at 6-7.) Plaintiff has not shown, either in her motion for reconsideration or in her
10 briefing, that the State agency doctor's opinion was "'contradicted by *all other evidence* in the
11 record,'" and thus has not shown that the ALJ erred by not discounting it. *Andrews v. Shalala*, 53
12 F.3d 1035, 1041 (9th Cir. 1995) (quoting *Magallanes v. Bowen*, 881 F.2d 747, 752 (9th Cir.
13 1989) (emphasis in original)).

14 Accordingly, because Plaintiff has failed to show clear error or any other basis for the
15 Court to reconsider its Order, the Court DENIES Plaintiff's motion (dkt. # 15).

16 Dated this 3rd day of October, 2019.

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18 MICHELLE L. PETERSON
19 United States Magistrate Judge
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